IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 603 of 1985
With
CROSS OBJECTION No. 8859 of 1985

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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SHANTILAL DOSALAL RAVAL - Appellant(s)
Versus
BANK OF BARODA & 1 - Defendant(s)

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Appearance :

MR PS CHAMPANERI for Appellant(s) : 1,
NOTICE SERVED for Defendant(s) : 1,
MR RAJNI H MEHTA for Defendant(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 18/08/2006

ORAL JUDGMENT

1. This appeal under Section 110-D of the Motor Vehicles Act is directed against the judgement and award dated 13.09.1984 passed by Motor Accident Claims Tribunal (Main), Surendranagar, in M.A.C.P. No. 399 of 1983 whereby tribunal directed the original applicant to recover the sum of Rs. 15,000/- with running interest at the rate of six percent per annum from both the

original opponents. This appeal is for enhancement.

2. The case of the appellant is that on 13.5.1985 at noon time applicant and one Mr. B.K. Sorathia were coming towards village on a motor cycle bearing Registration No. G.R.C. 8275. Mr. B.K. Sorathia was driving the said motor cycle. At that time he lost control over the said motor cycle and the said motor cycle fell in a ditch. As a result of this accident the applicant sustained serious injuries on left hand, right leg and other parts of the body. The appellant has got permanent disablement in respect of his left and right leg therefore he claimed the sum of Rs. 50,000/- by way of compensation.

3. Mr. P.S. Chapanery, learned advocate for the appellant has submitted that the tribunal has erred in awarding only Rs. 8,000/- on pain, shock and suffering and looking to the disability certificate at Exh. 61, injuries sustained by the

applicant the amount should have been on higher side.

4. Heard. I have gone through the judgement and award of the tribunal from the record it found that at Exh. 30 and 31 and there was an old mal-united fracture of calcaneum. It is also evident that the applicant is limping while walking. There was mal-united Collec's fracture at left wrist joint. The partial disability of left upper limb was assessed at 23.5% and for the right lower limb at 30%. Therefor I am of the view that the applicant is entitled for Rs. 15,000/- under the head of pain, shock and suffering whereby the tribunal has already awarded Rs. 8,000/- under the head of pain, shock and suffering. Therefore the applicant is entitled for an additional amount of Rs. 7,000/-.

5. In the premises aforesaid the appeal is partly allowed. The total claim goes to an amount of ***(Rs. 15,000 + Rs. 7,000 = Rs. 22,000/-)***

Tribunal has already awarded Rs. 15,000/- therefore applicant is entitled for an additional amount of ***Rs. 7,000/-*** with ***6%*** interest.

6. Since the contention raised in the cross objections were raised before the tribunal and considered by the tribunal, I do no find any merits in the cross objections. Same is accordingly rejected.

(K.S.JHAVERI, J.)

Suresh*